

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

**UNITED STATES OF AMERICA,**

**Plaintiff,**  
v.  
**Case No. 12-CR-55(3)**  
**Judge Gregory L. Frost**

**SONTAY T. SMOTHERMAN,**

**Defendant.**

**ORDER**

This matter came on for consideration upon Defendants Motion to Reconstruct the Record (ECF No. 367) filed on December 10, 2015 and the Government's Opposition (ECF No. 370) filed on December 14, 2015.

The Court finds Defendant's Motion to be not well taken and the Court **DENIES** the same.

Rule 10 of the Rules of Appellate Procedure makes it clear that it is appellants duty to order the transcript of the trial proceedings. Defendant has failed to request a transcript of those portions of the trial that he now wishes to reconstruct. The entire trial including the voir dire examination, the opening statements, the closing arguments, and the jury charge were all taken down by the court reporter but Defendant has not requested a transcript of those portions of trial. There is no need to reconstruct the record because the record remains available to Defendant at his request and upon payment of the transcription fee.

**IT IS SO ORDERED.**

/s/ Gregory L. Frost  
GREGORY L. FROST  
UNITED STATES DISTRICT JUDGE